

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH
AND
THE NEWPORT BEACH
POLICE MANAGEMENT
ASSOCIATION



January 1, 2012 through December 31, 2014

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MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF NEWPORT BEACH AND
NEWPORT BEACH POLICE MANAGEMENT ASSOCIATION

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is entered into with reference to the following:

PREAMBLE

1. The Newport Beach Police Management Association ("NBPMA" or "Association"), a recognized employee organization, and the City of Newport Beach ("City"), a municipal corporation and charter city, have been meeting and conferring, in good faith, with respect to wages, hours, fringe benefits and other terms and conditions of employment.
2. NBPMA representatives and City representatives have reached a tentative agreement as to wages, hours and other terms and conditions of employment for the period from *January 1, 2012 to December 31, 2014* and this tentative agreement has been embodied in this MOU, which has been executed concurrently.
3. This MOU, upon approval by NBPMA and the Newport Beach City Council, represents the total and complete understanding and agreement between the parties regarding all matters set forth herein.

SECTION 1. – General Provisions

A. Recognition

In accordance with the provisions of the Charter of the City of Newport Beach, the Meyers-Milias-Brown Act of the State of California and the provisions of the Employer's/Employee Labor Relations Resolution No. 2001-50, the City acknowledges that NBPMA is the majority representative for the purpose of meeting and conferring regarding wages, hours and other terms and conditions of employment for all employees in those classifications specified in Exhibit "A" or as appropriately modified in accordance with the Employer/Employee Resolution. All other classifications and positions not specifically included within Exhibit "A" are excluded from representation by NBPMA. *Exhibit "A" is incorporated by reference into this MOU.*

B. Duration of Memorandum

Except as specifically provided otherwise, any ordinance, resolution or action of the City Council necessary to implement this MOU shall be considered effective as of *January 1, 2012*. *This MOU shall remain in full*

force and effect until December 31, 2014, and the provisions of this MOU shall continue after the date of expiration of this MOU in the event the parties are meeting and conferring on a successor MOU.

C. Release Time

1. NBPMA members shall be allowed to participate in the following activities during scheduled working hours without loss of pay ("Release Time"):
 - a. Attendance at meetings, conferences, seminars or workshops related to matters within the scope of representation;
 - b. To prepare for, travel to, and attend scheduled meetings between the City and NBPMA during the meet and confer process.
 - c. To travel to and attend scheduled grievance and disciplinary hearings.
 - d. To meet, for up to one (1) hour, with their representative prior to a hearing described in (c) above.
2. City grants NBPMA one hundred (100) hours of Release Time per calendar year to engage in the activities described in subsection 1(a). NBPMA may accumulate up to three hundred (300) hours of City-provided Release Time.
3. City grants NBPMA members the right to engage in the activities described in subsections 1(b), (c), and (d) at any time without reduction to the Release Time granted in subsection 2
4. NBPMA shall designate certain members as those members entitled to Release Time. In no event shall any one designate be entitled to use more than one hundred (100) hours of Release Time (exclusive of actual time spent meeting with City representatives on matters relating to the scope of representation), within any calendar year. Designates must give reasonable advance notice to, and obtain permission from, their supervisor prior to use of Release Time, or, prior to adjusting work hours per subsection 4(a). Requests for Release Time shall be granted by the supervisor unless there are specific circumstances that require the designate to remain on duty. Designates shall, to the maximum extent feasible, receive shift assignments compatible with participation in the meet and confer process.

- a. Any NBPMA negotiating team member may request and shall (subject to the approval process above) be granted flex work hours on any scheduled work day during which the negotiating team member is to attend a meet and confer session. Employees may flex start/finish time up to two (2) hours.

D. Scope

1. The terms and conditions of this MOU shall prevail over conflicting provisions of the Newport Beach City Charter, the ordinances, resolutions, and policies of the City of Newport Beach, and federal and state statutes, rules and regulations which either specifically provide that agreements such as this prevail, confer rights which may be waived by any collective bargaining agreement, or are, pursuant to decisional or statutory law, superseded by the provisions of an agreement similar to this MOU.
2. All present written rules and current established practices and employees' rights, privileges and benefits that are within the scope of representation shall remain in full force and effect during the term of this MOU unless specifically amended by the provisions of this MOU.
3. Pursuant to this MOU, the City reserves and retains all of its inherent exclusive and non-exclusive managerial rights, powers, functions and authorities ("Management Rights") as set forth in *Resolution No. 2001-50*. Management Rights include, but are not limited to, the following:
 - a. The determination of the purposes and functions of the Police Department;
 - b. The establishment of standards of service;
 - c. To assign work to employees as deemed appropriate;
 - d. The direction and supervision of its employees;
 - e. The discipline of employees;
 - f. The power to relieve employees from duty for lack of work or other legitimate reasons;
 - g. To maintain the efficiency of operations;

- h. To determine the methods, means and personnel by which Police Department operations are to be conducted;
- i. The right to take all necessary actions to fulfill the Police Department's responsibilities in the event of an emergency;
- j. The exercise of complete control and discretion over the manner of organization, and the appropriate technology, best suited to the performance of departmental functions.

The practical consequences of a Management Rights decision on wages, hours, and other terms and conditions of employment shall be subject to the grievance procedures.

E. Conclusiveness

This MOU contains all of the covenants, stipulations, and provisions agreed upon by the parties. Therefore, for the life of this MOU, neither party shall be compelled, and each party expressly waives its rights to request the other to meet and confer concerning any issue relating primarily to matters within the scope of representation except as expressly provided herein or by mutual agreement of the parties. No representative of either party has the authority to make, and none of the parties shall be bound by, any statement, representation or agreement reached prior to the execution of this MOU and not set forth herein.

F. Modifications

Any agreement, alteration, understanding, variation, or waiver or modification of any of the terms or provisions of this MOU shall not be binding upon the parties unless contained in a written document executed by authorized representatives of the parties.

G. Bulletin Boards

Space shall be provided on bulletin boards within the Police Department at their present location for the posting of notices and bulletins relating to NBPMA business, meetings, or events. All materials posted on bulletins boards shall indicate the name of the organization responsible. Material posted shall not contain personal attacks on any City official or employee, any material which constitutes harassment, discrimination or retaliation on the basis of race, gender, ethnicity, religion or other statutorily or constitutionally impermissible basis, or any pornographic or obscene material.

H. No Strike

The parties recognize their mutual responsibility to provide the citizens of Newport Beach with uninterrupted municipal services and, therefore, for the term of this MOU, the parties agree not to conduct concerted strike, work slowdown, sick out, withholding of services, or lockout activities.

I. Savings

If any provision of this MOU shall be held invalid by any court of competent jurisdiction, or if compliance with or enforcement of any provision shall be restrained by court action, or other established governmental administrative tribunal, the remainder of this MOU shall not be affected, and the parties shall enter into negotiations for the sole purpose of arriving at a mutually satisfactory replacement for such provision or provisions.

J. Impasse

In the event of an impasse (the failure to agree on a new MOU after the express term of the existing MOU has expired), the parties may agree on mediation pursuant to the procedure outlined in Section 16 of *Resolution No. 2001-50* or a successor resolution.

SECTION 2. – Compensation

A. Salary Adjustments – this MOU Period

1. *Effective the first payroll period commencing on or after March 1, 2012, there shall be a base salary increase of not less than one percent (1%), nor more than two percent (2%). The precise amount of the increase shall be determined with reference to the percent increase in the Consumer Price Index (All Urban Consumers) for the Los Angeles, Riverside, Orange County areas for the twelve (12) consecutive months ending on March 31, 2012. If there is either a decrease in the CPI, no increase in the CPI or the increase is less than or equal to one percent (1%), the base salary increase shall be one percent (1%). If the increase is greater than one percent (1%), the base salary increase shall be in the same amount, but in no event, greater than two percent (2%).*
2. *Effective the first payroll period commencing on or after July 1, 2013, there shall be a base salary increase of not less than one percent (1%), nor more than two percent (2%). The precise amount of the increase shall be determined with reference to the percent increase in the Consumer Price Index (All Urban*

Consumers) for the Los Angeles, Riverside, Orange County areas for the twelve (12) consecutive months ending on March 31, 2013. If there is either a decrease in the CPI, no increase in the CPI or the increase is less than one percent (1%), the base salary increase shall be one percent (1%). If the increase is greater than one percent (1%), the base salary increase shall be in the same amount, but in no event, greater than two percent (2%).

3. *Effective the first payroll period commencing on or after July 1, 2014, there shall be a base salary increase of not less than one percent (1%), nor more than two point five percent (2.5%). The precise amount of the increase shall be determined with reference to the percent increase in the Consumer Price Index (All Urban Consumers) for the Los Angeles, Riverside, Orange County areas for the twelve (12) consecutive months ending on March 31, 2014. If there is either a decrease in the CPI, no increase in the CPI or the increase is less than one percent (1%), the base salary increase shall be one percent (1%). If the increase is greater than one percent (1%), the base salary increase shall be in the same amount, but in no event, greater than two point five percent (2.5%).*
4. *Concurrent with the July 1, 2013 implementation of the three point one percent (3.1%) Government Code Section 20516(a) cost sharing as to all unit members (see Section 4.D. below,) the base salary for all unit members shall be increased by three point one percent (3.1%).*

B. Code Seven/Duty Incentive Time

The City and NBPMA have agreed to entitlement to compensation for duty incentive time and Code Seven time based upon implementation of the 9/80 work schedule (since modified to 3-12, with concurrence of NBPMA) and a settlement agreement between the City and NBPMA. NBPMA and its members agree that the provisions and rules relative to entitlement to compensation for duty incentive time or Code Seven time survive the termination of this MOU, that the provisions of the settlement agreement are in full force and effect, and that no request for compensation for duty incentive time or Code Seven time at variance with the provisions of existing rules or the settlement agreement shall be made at any time in the future by NBPMA or any of its members

C. Overtime

1. Employees shall be entitled to overtime compensation at the rate of time and one half (1.5) the regular rate of pay for hours worked in

excess of their regularly scheduled shift. Paid time off shall be considered time worked for overtime calculation purposes.

2. Overtime compensation shall be in the form of compensatory time off or pay at the election of the employee. Maximum compensatory time accrual shall be one hundred twenty (120) hours. All overtime worked for employees at the CTO maximum shall be paid. The parties agree that the current practice of accruing and utilizing CTO is reasonable and shall continue for the term of this agreement.
3. Overtime Compensation - Court
 - a. Compensation - Employees shall receive either compensatory time or paid time at their discretion.
 - b. On-Call - Off-duty employees on call for court who have not been canceled prior to the scheduled standby time shall, whether extended or not, be compensated at a rate equal to the actual standby time, with a minimum of one (1) hour paid at time and one-half (1.5) the *employee's regular rate of pay*.
 - c. Appearance - Off-duty employees who are required to appear in court shall be compensated for the actual time involved with a minimum of two (2) hours paid at time and one-half (1.5) the *employee's regular rate of pay*. Employees appearing in court after being on call the same day shall be compensated from the time listed on the subpoena until released by the court.
 - d. Cancellation – Off-duty employees whose court appearance is cancelled with less than twelve (12) hours notice shall receive a payment for one (1) hour at the employee's regular rate of pay.
4. NBPMA members occupying the position of Captain shall not be entitled to compensatory time off or pay for overtime. City and NBPMA agree that the position of Captain is properly considered exempt from the overtime requirements of FLSA. However, NBPMA members occupying the position of Captain shall be eligible for up to eighty (80) hours of administrative leave per calendar year. The precise amount of administrative leave granted each Captain shall be based on the recommendation of the Police Chief and approved by the City Manager. Administrative leave may not be carried forward from one (1) calendar year to the next.
5. With the approval of the Division Commander, NBPMA members assigned to non-shift assignments may work certain holidays if they occur on regularly-scheduled work days.

D. Uniform Allowance

The City will report to PERS a uniform allowance amount of One Thousand Three Hundred and Fifty Dollars (\$1,350) per year.

E. Scholastic Achievement Pay

Sworn NBPMA members are entitled to additional compensation contingent upon scholastic achievement ("Scholastic Achievement Pay").

Sworn NBPMA members may apply for increases pursuant to this Section when eligible and scholastic achievement pay shall be included in the member's paycheck for the pay period immediately after approval by the Chief of Police. It is the responsibility of the NBPMA member to apply for Scholastic Achievement Pay. Approval of the member's application shall not be unreasonably withheld or delayed, and the member shall not be entitled to receive Scholastic Achievement Pay prior to the date the application is approved even though the member may have been eligible prior to approval. Scholastic Achievement Pay is contingent the number of units and/or degrees received by the employee. Effective the pay period beginning January 20, 2007 (prospectively), Employees shall be eligible for Scholastic Achievement Pay based on their total full-time sworn law enforcement time, including up to a maximum of six (6) months time employed as a police recruit or similar classification in a police training academy. The following is a schedule of monthly payments pursuant to the Scholastic Achievement Program:

The Scholastic Achievement Pay schedule is as follows, and is regardless of years of service:

<u>60 Units</u>	<u>90 Units</u>	<u>BA/BS</u>	<u>MA/MS/JD</u>
2%	3%	7%	8.5%

Educational incentive payments shall be made only for units/degrees above the minimum qualifications called out in the job descriptions. Individuals receiving pay in this category (minimum units/degrees) as of January 1999 shall retain the compensation, however.

Any unit members hired on and after City Council adoption of this 2012-2014 MOU shall be ineligible for any Scholastic Achievement Pay based upon having obtained units only.

F. Special Leadership Compensation

Individuals who have completed the California Post Supervisory Leadership Institute ("SLI"), Post Command College, or the FBI National Academy will receive an additional one percent (1%) of base pay.

G. Holiday Time

NBPMA members shall accrue holiday time at the rate of ninety-six (96) hours per fiscal year (July 1 through June 30th), and at the rate of three point seven (3.7) hours per pay period.

Option 1 (Default): Unless otherwise irrevocably elected by the employee, holiday compensation shall be paid in cash along with the employee's regular bi-weekly check, and will be reported to PERS as special compensation in addition to the employee's bi-weekly base salary.

Option 2: Within sixty (60) days of NBPMA membership, NBPMA members may irrevocably elect to have all or any portion of the three point seven (3.7) hours of accrued holiday compensation added to the member's flex leave bank on a bi-weekly basis in lieu of a cash payment. Once holiday time is accrued to the member's flex leave bank, all rules and opportunities concerning the flex leave program (described elsewhere in this MOU and in the Employee Policy Manual) will apply (e.g. usage, maximum balance, spillover, periodic payout, etc.). Pay for any time taken from the flex leave bank, and any spillover pay or other payout for flex leave, will not be reported to PERS as special compensation.

H. Leave Pay-Off

For the term of the agreement, NBPMA members shall receive payment for any accrued leave upon termination at the rate of *one hundred percent (100%)* of their base hourly rate.

I. July 4th

The Police Department has the discretion to schedule any of its employees to work a regular work day on July 4th, regardless of the day of the week or job assignment. This may include modifying work schedules and/or days off according to deployment needs. All Unit members who actually work July 4th will be compensation at their regular hourly rate, plus premium pay equal to half (½) of the hours actually worked on that day. Employees will be provided their regular number of days off for the month of July (unless otherwise scheduled on an overtime basis), which will be selected/assigned according to the normal practices of their particular work unit.

J. Bilingual Pay

Employees certified as bilingual (Spanish) shall be eligible to receive Two Hundred Dollars (\$200) per month in bilingual pay. The existing certification process will confirm that employees are fluent at the street conversational level in speaking, reading and writing Spanish. Employees certified shall receive bilingual pay the first full pay period following certification.

Additional languages may be certified for compensation pursuant to this section by the Chief of Police.

SECTION 3. – Leaves

A. Flex Leave

1. Effective the first pay period after July 1, 2012, NBPMA members shall accrue (prospectively) flex leave and receive longevity pay based on the greater of their total continuous years of full-time service with the City of Newport Beach, or their total full-time employment as a sworn law enforcement officer, including up to a maximum of six (6) months time employed as a police recruit or similar classification in a police training academy. NBPMA members shall accrue Flex Leave and receive Longevity Pay at the following rates:

<u>Years of Continuous Service:</u>	<u>Adjusted Accrual Per Pay Period:</u>	<u>Longevity Pay Increase</u>
½ but less than 5	5.69231	
5 but less than 9	6.30616	
9 but less than 12	6.92152	
12 but less than 16	7.53696	0.75%
16 but less than 20	7.53696	1.5%
20 but less than 25	7.53696	2.25%
25 and over	7.53696	3.0%

2. NBPMA and the City acknowledge that employees assigned the 9/81 work schedule accrue one (1) additional hour per pay period in addition to the accrual levels set forth in subsections 1(a) and 1(b) above.

3. The Flex leave program shall be administered as follows:
- a. NBPMA members shall not accrue flex leave until continuously employed by the Newport Beach Police Department for a period of six (6) months provided, however, if a member on the flex leave program becomes sick during the first six (6) months of employment, the City will advance up to thirteen (13) pay periods of paid leave time for use by the member to recover from illness. In the event the City advances paid leave time and the employee is terminated or resigns before completing six (6) months of continuous employment, the member's final check shall be reduced by an amount equal to the number of flex leave hours advanced multiplied by the member's hourly rate of pay.
 - b. NBPMA members shall accrue thirteen (13) pay periods of flex leave immediately upon completion of six (6) months continuous employment with the Newport Beach Police Department, provided however, this amount shall be reduced by any flex leave time advanced during the first six (6) months of employment.
 - c. Members employed by the City prior to initiation of the flex leave program have had then current accrued vacation time converted to flex leave on an hour for hour basis with then current sick leave placed in a bank to be used as provided in Section 11.2 of the City of Newport Beach Employee Policy Manual. Members entitled to use sick leave pursuant to Section 11.2A of the Employee Policy Manual must notify appropriate department personnel of their intention to access the sick leave bank and, in the absence of notification, absences will be charged to the member's flex leave account. Members who wish to convert an absence from flex leave to sick leave must submit a written request to the Chief of Police within twenty (20) days after the absence (20 days from the last absence in the event the member was continuously absent for more than one day) specifying the nature of the illness and the person notified of the intent to use sick leave, or the reasons for the failure to notify appropriate department personnel. The Chief of Police shall grant the request for conversion if the member submits a written statement signed by his or her attending physician confirming the illness and the Police Chief determines that the member's failure to notify appropriate departmental personnel was reasonable under the circumstances.

- d. NBPMA members shall be entitled to accrue flex leave up to seventy-eight (78) times the members bi-weekly flex leave accrual rate (Flex Leave Accrual Threshold). *NBPMA members first hired by the City prior to July 1, 1996, shall be paid for all flex leave that accrues in excess of the flex leave accrual threshold (Flex Leave Spillover Pay).* Flex Leave Spillover Pay will be paid at the member's regular hourly rate of pay. Effective during the first pay period of January, 1998, NBPMA members who have not utilized at least eighty (80) hours of flex leave during the prior calendar year shall not accrue flex leave in excess of the Flex Leave Accrual Threshold and shall not be entitled to Flex Leave Spillover Pay.

NBPMA members first hired, or rehired by the City subsequent to July 1, 1996, shall not be eligible for Flex Leave Spillover Pay and shall not be entitled to accrue flex leave in excess of the Flex Leave Accrual Threshold.

Employees who have accrued in excess of seventy-eight (78) times the member's bi-weekly accrual rate concurrent with adoption of the 2012 MOU, shall accrue no additional time unless through use of time or any authorized cash payment (including spillover pay), the accrued hours decrease to less than seventy-eight (78) times the bi-weekly accrual rate. Except for persons eligible for Spillover Pay, in no case shall leave that would have been accrued in excess of the above limitations be earned for cash conversion.

- e. All requests for scheduled flex leave shall be submitted to appropriate department personnel. Flex leave may be granted on an hourly basis. In no event shall a member take or request flex leave in excess of the amount accrued.
- f. Members shall be paid for all accrued flex leave at their then current hourly rate of pay upon termination of the employment relationship.

B. Bereavement Leave

Bereavement Leave shall be defined as the necessary absence from duty by an employee having regular or probationary appointment because of the death or terminal illness in his/her immediate family. NBPMA members shall be entitled to forty (40) hours of bereavement leave per incident (terminal illness followed by death is considered one (1) incident).

Immediate family shall mean an employee's father, mother, brother, sister, *spouse/domestic partner*, child or grandparent, and the employee's *spouse/domestic partner's* father, mother, brother, sister, child or grandparent.

C. Worker's Compensation Leave

In accordance with Section 4850 of the Labor Code, unit employees shall be entitled to leave of absence while disabled without loss of salary for the period of the disability, not to exceed one (1) year.

D. Scheduling of Medical Treatment for Industrial Injuries

1. Time spent by an employee receiving medical attention during the employee's normal working hours is considered hours worked and compensable, when the City or its representative schedules the appointment.
2. When an employee is temporarily totally disabled due to an industrial injury, and is unable to perform even limited duty in the workplace, all appointments, whether arranged by the City or the employees, shall be considered as occurring during normal working hours. The employee shall not be entitled to any additional compensation, regardless of the employee's regular work schedule or the type of compensation currently received, except as otherwise required by law.
3. When an employee has been released to either full or limited duty and has returned to the workplace, time spent receiving ongoing medical treatment, such as physical therapy or follow-up visits that are not scheduled by the City, is not considered hours worked and therefore, is not compensable. To avoid disruption in the workplace, an employee shall schedule such appointments to occur during off duty hours whenever possible. In the event such scheduling is not available, employee may be allowed to attend an appointment during their regularly scheduled duty shift with prior supervisory approval. Regular recurring appointments (*i.e.*, weekly physical therapy) must be scheduled off duty.

SECTION 4. – Fringe Benefits

A. Health Insurance

1. Benefits Information Committee

City has established a Benefits Information Committee ("BIC") composed of one representative from each employee association

group and up to three City representatives. The BIC has been established to allow the City to present data regarding carrier and coverage options, the cost of those options, appropriate coverage levels and other health programs. The purpose of the BIC is to provide each employee group with information about health insurance/programs and to receive timely input from associations regarding preferred coverage options and levels of coverage.

2. Medical Insurance

The City has implemented an IRS qualified Cafeteria Plan. In addition to the amounts listed below, the City shall contribute the minimum CalPERS participating employer's contribution towards medical insurance. Employees shall have the option of allocating Cafeteria Plan contributions towards the City's existing medical, dental and vision insurance/programs. The City and the Newport Beach Police Management Association will cooperate in pursuing additional optional benefits to be available through the Cafeteria Plan.

Any unused Cafeteria Plan funds shall be payable to the employee as taxable cash back. Employees shall be allowed to change coverages in accordance with plan rules and during regular open enrollment periods.

Effective the pay period beginning on or immediately after:

- *March 1, 2012, the City's contribution towards the Cafeteria Plan will increase to One Thousand One Hundred and Seventy-Four Dollars (\$1,174) (plus the minimum CalPERS participating employer's contribution.)*
- *January 1, 2013, the City's contribution towards the Cafeteria Plan will increase to One Thousand Two Hundred and Seventy-Four Dollars (\$1,274) (plus the minimum CalPERS participating employee's contribution.)*
- *January 1, 2014, the City's contribution towards the Cafeteria Plan will increase to One Thousand Three Hundred and Twenty-Four Dollars (\$1,324) (plus the minimum CalPERS participating employee's contribution.)*

NBPMA members who do not want to enroll in any medical plan offered by the City must provide evidence of group medical insurance coverage, and execute an opt-out agreement releasing

the City from any responsibility or liability to provide medical insurance coverage on an annual basis.

Those members participating in the opt-out program shall be permitted to cash out one hundred percent (100%) of the City's contribution towards the cafeteria plan, not to exceed One Thousand Two Hundred and Seventy-Four Dollars (\$1,274) monthly.

3. Dental Insurance

The existing or comparable dental plans shall be maintained as part of the City's health plan offerings as agreed upon by the BIC.

4. Vision Insurance

The existing or a comparable vision plan shall be maintained as part of the City's health plan offerings as agreed upon by the BIC.

B. Additional Insurance/Programs

1. IRS Section 125 Flexible Spending Account

Section 125 of the Internal Revenue Code authorizes an employee to reduce taxable income for payment of allowable expenses such as child care and medical expenses. The City shall maintain a "reimbursable account program" in accordance with the provisions of Section 125 of the Internal Revenue Code, pursuant to which an Association member may request that medical, child care and other eligible expenses be paid or reimbursed by the City out of the employee's account. The base salary of the employee will be reduced by the amount designated by the employee for reimbursable expenses.

The City's obligation to establish a reimbursable account program is contingent upon the City incurring no cost or potential liability relative to the plan or its administration. City shall cooperate to the fullest extent of the law provided, however, City may require the plan to contain provisions that authorize the administrator to pay allowable expenses only upon submittal of a demand from the City. Any "reduction" in salary pursuant to this Section and/or the Section 125 Plan established by the City, shall not affect any other provision of this MOU.

2. Disability Insurance

The City shall provide Short-term (STD) and Long-term (LTD) disability insurance to all regular full time employees with the following provisions:

Weekly Benefit	66.67% gross weekly wages
Maximum Benefit	\$10,000/month
Minimum Benefit	\$50
Waiting Period	30 Calendar Days

Employees shall not be required to exhaust accrued paid leaves prior to receiving benefits under the disability insurance program.

Employees may not supplement the disability benefit with paid leave once the waiting period has been exhausted.

Concurrent with the commencement of this program, employees assumed responsibility for the payment of the disability insurance cost in the amount of one percent (1%) of base salary. Simultaneously, the City increased base wages by one percent (1%).

C. Employee Assistance Program

City shall provide an Employee Assistance Program ("EAP") through a properly licensed provider. NBPMA members and their family members may access the EAP at no cost subject to provider guidelines.

D. Retirement Benefits

1. *For persons hired on or before the date of this MOU and on or before implementation of any contract amendment for a three percent (3%) at fifty-five (55) Plan, the City provides the Public Employees' Retirement System retirement formula of three percent (3%) at fifty (50).*
2. *Effective the first payroll period commencing on and after adoption of this MOU, unit members shall contribute six and a quarter percent (6.25%) of pensionable pay towards retirement costs pursuant to Government Code Section 20516 (f). This payment will be calculated on base pay, special pays, and other pays normally reported as "PERSable" compensation, and will be made on a pre-tax basis through payroll deduction provided under 414(h)(2). This contribution will not*

affect the reporting of the 9% Employer Paid Member Contribution and reported as special compensation for employees under the 3@50 retirement formula.

3. *Effective the first payroll period commencing on and after July 1, 2013, unit members shall contribute an additional 2.75% of pensionable pay towards retirement costs pursuant to Government Code Section 20516 (f) for a total of 9%. This payment will be calculated on base pay, special pays, and other pays normally reported as "PERSable" compensation, and will be made on a pre-tax basis through payroll deduction provided under 414(h)(2). This contribution will not affect the reporting of the 9% Employer Paid Member Contribution and reported as special compensation for employees under the 3@50 retirement formula.*
4. *Effective the first payroll period commencing on and after July 1, 2014, the 9% employee contribution will be paid as the normal member contribution. Concurrently, the City shall cease reporting any Employer Paid Member Contribution for Unit Members and payment by any unit member of the individual member's normal employee PERS contributions required to be paid by PERS shall not be reported to PERS as special compensation.*
5. The City's contract with PERS shall also provide for:
 - a. A three percent (3%) at fifty (50) retirement formula pursuant to the provisions of Section 21252.01 of the California Government Code (subject to the Amendment described in Section 5, below.)
 - b. The military buy-back provisions pursuant to Section 20930.3 of the California Government Code and the highest year benefit pursuant to California Government Code Section 20042.
 - c. The Level 4 1959 Survivors Benefits.
 - d. The PERS pre-retirement option settlement 2 death benefit (Section 21548) for miscellaneous and safety members.
6. *2nd Tier. All employees hired following City Council adoption of this 2012-2014 Memorandum of Understanding and implementation of enabling contract amendment(s) with CalPERS, whenever those amendment(s) shall be made, shall be subject to the following retirement benefits.*

- a. *Safety personnel – the three percent (3%) at fifty-five (55) retirement formula with the retiree’s annuity being calculated based upon the employee’s compensation earnable during the highest paid consecutive thirty-six (36) month period.*
- b. *All such hirees shall individually pay one hundred percent (100%) of the statutorily mandated member normal employee PERS contribution.*
- c. *Unless specifically modified herein, said newly hired employees shall be subject to other then-existing City-PERS contract provisions.*

7. Safety Member Government Code Section 20516 Cost Sharing.

Effective on July 1, 2013 or as soon thereafter as is reasonably possible, the City shall take all action necessary to amend its contract with PERS to provide for a Government Code Section 20516(a) authorized cost sharing by safety unit members of the cost of optional retirement benefits in an amount equal to three point one percent (3.1%) of member compensation earnable. This three point one percent (3.1%) cost sharing contribution shall be treated as normal member PERS contributions to the extent provided by statute.

The parties acknowledge that implementing the Government Code Section 20516(a) PERS contract amendment as to all unit safety members is contingent upon the cost sharing contribution being uniform with respect to all local police officers within the City and/or to compliance with any and all other provisions as may be mandated by statute and/or PERS. (Therefore, compliance with the requirement of uniform contribution with respect to all local police officers, will require an agreement with the NBPMA which is in accord with the cost sharing agreement of the NBPMA.)

The parties acknowledge that compliance with the Government Code Section 20516(a) “uniform contribution” requirement within the classification of all local police officers, is not a certainty and may not be possible at the time of adoption of this 2012-2014 MOU. The parties further acknowledge that implementation of a Government Code Section 20516(a) PERS contract amendment is contingent upon PERS determining that all conditions precedent to a Government Code Section 20516(a) contract amendment have been met.

Therefore, the parties acknowledge that implementing a Government Code Section 20516(a) PERS contract amendment as to unit safety

members will entail the passage of an unspecified period of time and in fact, may not be approved by PERS. Therefore, the parties further agree that if a Government Code Section 20516(a) PERS contract amendment is not implemented effective July 1, 2013, the parties shall effective July 1, 2013, utilize Government Code Section 20516(f) to effectuate the three point one percent (3.1%) safety member cost sharing contribution. Implementation of cost sharing pursuant to Government Code Section 20516(f) shall remain in full force and effect unless or until a Government Code Section 20516(a) contract amendment is approved by PERS. To the extent authorized by the IRS and/or Franchise Tax Board, Government Code Section 20516(f) cost sharing shall be implemented through pre-tax payroll deductions.

Finally, if for any reason unit safety member cost sharing is not authorized by either Government Code Section 20516(a) or (f), then effective concurrent with either disallowance by PERS of such cost sharing or a Superior Court judgment being rendered disallowing cost sharing pursuant to Government Code Section 20516(a) or (f), the above Section 2.A(f) three point one percent (3.1%) base salary increase shall be immediately terminated and the parties shall reconvene the meet and confer process confined to the issue of a replacement for the three point one percent (3.1%) cost sharing and three point one percent (3.1%) base salary increase. Moreover, upon the termination of the three point one percent (3.1%) base salary increase, the City shall simultaneously terminate any employee cost sharing pursuant to subparagraph 8 of this Section, unless and until such three point one percent (3.1%) base salary increase is reinstated by subsequent mutual agreement of the parties.

Attached to this Memorandum of Understanding as Exhibit "B" is a March 1, 2012 letter from PERS Senior Pension Actuary, Kerry Worgan. Exhibit "B" is incorporated by reference into this MOU. Based upon the representations made in Exhibit "B", it is the agreement of the parties that unless and/or until modified pursuant to the meet and confer process or as mandated by law, these designated safety member cost sharing contributions shall continue until the August 26, 2020 "expiration date" designated in Exhibit "B" and shall then concurrently revert to the amount of two point one four two percent (2.142%) on August 26, 2020, unless and/or until said amount is modified pursuant to the meet and confer process and/or requirements of law.

- 8. The parties further agree and acknowledge that if during the term of the MOU, State statutory or other requirements of law change to mandate modifications to substantive retirement benefits and/or the manner of funding such benefits prior to June 30, 2014, the parties shall promptly reconvene the meet and confer process in order to address the impact*

of any such mandatory statutory or other changes in the law. MOU changes which are required in order to bring the Agreement into conformance with mandatory statutory or other requirements, shall be implemented concurrent with the effective date of said statutory/other changes of law, regardless of the impact-related meet and confer process having been convened or completed.

9. *Percent of retirement funding amount to be paid by safety members.*

The CalPERS safety retirement defined benefit plan is funded by CalPERS mandated employer contributions based on a percentage of payroll (and statutorily mandated employee member contributions, as well.) The combined employer and member contribution percentages constitute the cost of funding the safety retirement plan. Effective concurrent with implementation of the above July 1, 2013 safety member payment of nine percent (9%) of compensation as and for the individual member's normal employee PERS contributions, unit members who are safety employees shall be funding twenty-six point five percent (26.5%) of the cost of the safety retirement plan. (The twenty-six point five percent (26.5%) amount is the result of adding the July 1, 2013 nine percent (9%) normal member contribution to the above described three point one percent (3.1%) employee payment of the employer cost of retirement funding, pursuant to Government Code Section 20516.) The safety member funding of twenty-six point five percent (26.5%) of the cost of the retirement plan shall remain in full force and effect on and after July 1, 2013, subject to the mandate that maintenance of the twenty-six point five percent (26.5%) member funding of the retirement cost shall be limited to an increase or decrease in Government Code Section 20516 employee cost sharing of two percent (2%). For example, maintenance of twenty-six point five percent (26.5%) employee retirement funding rate shall result in a maximum Government Code Section 20516 employee cost sharing of five point one percent (5.1%) and a minimum of one point one percent (1.1%). In the event that compliance with the above twenty-six point five percent (26.5%) member funding of retirement cost would result in a member funding an excess of any statutory or other legal limitations on such funding, each affected employee shall fund the maximum amount (not to exceed twenty-six point five percent (26.5%) plus or minus two percent (2%)) allowed by statute or other legal authority.

E. Retiree Medical Benefit

1. Background

In 2005, the City and all Employee Associations agreed to replace the previous "defined benefit" retiree medical program with a new "defined

contribution” program. The process of fully converting to the new program will be ongoing for an extended period. During the transition, employees and (then) existing retirees have been administratively classified into one of four categories. The benefit is structured differently for each of the categories. The categories are as follows:

- a. Category 1 - Employees newly hired after January 1, 2005.
- b. Category 2 - Active employees hired prior to January 1, 2005, whose age plus years of service as of January 1, 2005 was less than 50 (46 for public safety employees).
- c. Category 3 - Active employees hired prior to January 1, 2005, whose age plus years of service was fifty (50) or greater (forty-six (46) for public safety employees) as of January 1, 2005.
- d. Category 4 - Employees who had already retired from the City prior to January 1, 2005, and were participating in the previous retiree medical program.

2. Program Structure

This is an Integral Part Trust (IPT) Medical Expense Reimbursement Program Plan (MERP).

- a. For employees in Category 1, the program is structured as follows:

Each employee will have an individual MERP account for bookkeeping purposes, called his or her “Employee Account.” This account will accumulate contributions to be used for health care expense after separation. All contributions to the plan are either mandatory employee contributions or City paid employer contributions, so they are not taxable to employees at the time of deposit. Earnings from investment of funds in the account are not taxable when posted to the account. Benefit payments are not taxable when withdrawn, because the plan requires that all distributions be spent for specified health care purposes.

Contributions will be in three parts.

Part A contributions (mandatory employee contributions): one percent (1%) of Salary.

Part B contributions (employer contributions): One Dollar and Fifty Cents (\$1.50) per month for each year of service plus year of age (updated every January 1st based on status as of December 31st of the prior year). Effective January 2008, this contribution will increase to Two Dollars and Fifty Cents (\$2.50) per month.

Part C contributions (leave settlement as determined by Association):

The Association will determine the level of contribution for all employees it represents, subject to the following constraints. All employees within the Association must participate at the same level. The participation level should be specified as a percentage of the leave balance on hand in each employee's leave bank at the time of separation from the City.

For example, if the Association wishes to specify fifty percent (50%) of the leave balance as the participation level, then each member leaving the City, or cashing out leave at any other time, would have the cash equivalent of fifty percent (50%) of the amount that is cashed out added to the MERP, on a pre-tax basis. The remaining fifty percent (50%) would be paid in cash as taxable income. Individual employees would not have the option to deviate from this breakout.

The Association has decided to participate in Part C contributions at the level of ninety percent (90%) for Flex/Vacation Leave and ninety percent (90%) for Sick Leave. This amount may be changed, on a going forward basis, as part of a future meet and confer process. However, the participation level must be the same for all employees within the Association. Additionally, the purpose and focus of these changes should be toward long-term, trend type adjustments. Due to IRS restrictions regarding "constructive receipt," the City will impose restrictions against frequent spikes or drops that appear to be tailored toward satisfying the desires of a group of imminent retirees.

Spillover pay is not eligible for Part C contributions.

Nothing in this section restricts taking leave for time off purposes.

Sick leave balances may also be included in the MERP Part C contributions, but only to the extent and within all the numeric parameters specified in the Employee Policy Manual. Section 11.21 of the Employee Policy Manual contains a schedule which specifies the amount of sick leave that can be "cashed out," based

on time of service. The manual also caps the number of hours that can be “cashed out” at eight hundred (800), and specifies that sick leave hours are “cashed out” on a two (2) for one (1) basis (eight hundred (800) hours of sick leave are converted to four hundred (400) hours for cash purposes). Sick leave participation is a separate item from vacation/flex leave participation, and thresholds must be separately identified by the Association.

Part A contributions may be included in PERS compensation. Part B and Part C contributions will not be included in PERS compensation.

Part A contributions begin upon enrollment in the program and are credited to each MERP Employee Account each pay period. Eligibility for Part B contributions is set at five (5) years of vested City employment. At that time, the City will credit the first five (5) years worth of Part B contributions into the Employee Account (interest does not accrue during that period). Thereafter, contributions are made bi-weekly. Part C deposits, if any, will be made at the time of employment separation.

Each Employee has a right to reimbursement of medical expenses (as defined below) from the Plan until the Employee Account balance is zero (0). This right is triggered upon separation. If an employee leaves the City prior to five (5) years employment, only the Part A contributions and Part C leave settlement contributions, if any, will be in the MERP Employee Account. Such an employee will not be entitled to any Part B contributions. The exception to this is a full-time employee, participating in the program, who leaves the City due to industrial disability during the first five (5) years of employment. In such cases, the employee will receive exactly five (5) years worth of Part B contributions, using the employee’s age and compensation at the time of separation for calculation purposes. This amount will be deposited into the employee’s MERP account at the time of separation.

Distributions from MERP Employee Accounts are restricted to use for health insurance and medical care expenses after separation, as defined by the Internal Revenue Code Section 213(d) (as explained in IRS Publication 502), and specified in the Plan Document. In accordance with current IRS regulations and practices, this generally includes premiums for medical insurance, dental insurance, vision insurance, supplemental medical insurance, long term care insurance, and miscellaneous medical expenses not covered by insurance for the employee and his or her spouse and legal dependents – again only as permitted by IRS

Publication 502. Qualification for dependency status will be determined by guidelines in IRC 152. If used for these purposes, distributions from the MERP accounts will not be taxable. Cash withdrawal for any other purpose is prohibited. Under recent IRS Revenue Ruling 2005-24, any balance remaining in the Employee Account after the death of the employee and his or her spouse and/or other authorized dependents (if any) must be forfeited. That particular MERP Employee Account will be closed, and any remaining funds will become general assets of the plan.

The parties agree that the City's Part B contributions during active employment constitute the minimum CalPERS participating employer's contribution towards medical insurance after retirement. The parties also agree that, for retirees selecting a CalPERS medical plan, or any other plan with a similar employer contribution requirement, the required City contribution will be withdrawn from the retiree's MERP account.

- b. For employees in Category 2, the program is the same as for those in Category 1, with the following exception:

In addition to the new plan contributions listed above, current employees who fully convert to the new plan will also receive a one-time City contribution to their individual MERP accounts that equates to One Hundred Dollars (\$100) per month for every month they contributed to the previous "defined benefit" plan, to a maximum of fifteen (15) years (one hundred eighty (180) months). This contribution will be made only if the employee retires from the City and at the time of retirement. No interest will be earned in the interim.

Employees in Category 2 who had less than five (5) years service with the City prior to implementation of the new program will only receive Part B contributions back to January 1, 2006 when they reach five (5) years total service.

- c. For employees in Category 3, the program is the same as for those in Category 2, with the following exception:

For employees in this category, the City will make no Part B contributions while the employees are still in the active work force. Instead, the City will contribute Four Hundred Dollars (\$400) per month into each of their MERP accounts after they retire from the City, to continue as long as the employee or spouse is still living.

Each employee will contribute a flat One Hundred Dollars (\$100) per month to the plan for the duration of their employment to partially offset part of this expense to the City. The maximum benefit provided by the City after retirement is Four Thousand Eight Hundred Dollars (\$4,800) per year, accruing at the rate of Four Hundred Dollars (\$400) per month. There is no cash out option for these funds, and they may not be spent in advance of receipt.

Employees in this category will also receive an additional one-time City contribution of Seventy-Five Dollars (\$75) per month for every month they contributed to the previous plan prior to January 1, 2006, up to a maximum of fifteen (15) years (one hundred eighty (180) months). This contribution will be made to the MERP account at the time of retirement, and only if the employee retires from the City. No interest will be earned in the interim.

- d. For employees (retirees) in Category 4, the structure is very similar to the previous retiree medical program, except that there is no cost share requirement, and the Four Hundred Dollar (\$400) City contribution after retirement can be used for any IRS authorized purpose, not just City insurance premiums.

Effective July 1, 2006, a MERP account has been opened for each retiree in this category, and the City will contribute Four Hundred Dollar (\$400) per month to each account as long as the retiree or spouse remains living.

For existing NBPMA retirees in this category, the Four Hundred Dollar (\$400) was increased to Four Hundred and Fifty Dollars (\$450) effective July 1, 2006. The NBPMA and Police Management Association have agreed to reimburse the City for half of the cost of this increase, on an ongoing basis.

To that end, the City will invoice NBPMA at the end of each quarter for half the actual cost of this increase during the previous three months.

3. Administration

Vendors have been selected by the City to administer the program. The contract expense for program-wide administration by the vendor will be paid by the City. However, specific vendor charges for individual account transactions that vary according to the investment actions taken by each employee, such as fees or commissions for trades, will be paid by each employee.

The City's Deferred Compensation Committee, or its successor committee, will have the authority to determine investment options that will be available through the plan.

4. Value of Benefit

For all purposes, including compensation comparisons, the Retiree Medical Program shall be valued at one percent (1%) of salary on which PERS retirement is based (Part A); plus a quarter percent (.25%) of other compensation (Part B).

F. Tuition Reimbursement

NBPMA members attending accredited community colleges, colleges, trade schools or universities may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, books, fees or other student expenses for approved job-related courses. Beginning July 1, 2012, the maximum tuition reimbursement for both sworn and non-sworn personnel shall be One Thousand Four Hundred Dollars (\$1,400) per fiscal year.

SECTION 5. – Miscellaneous Provisions

A. Reductions in Force/Layoffs

The provisions of this section shall apply when the City Manager determines that a reduction in the work force is warranted because of actual or anticipated reductions in revenue, reorganization of the work force, a reduction in municipal services, a reduction in the demand for service or other reasons unrelated to the performance of duties by any specific employee. Reductions in force are to be accomplished, to the extent feasible, on the basis of seniority within a particular Classification or Series and this Section should be interpreted accordingly.

1. Definitions

- a. "Layoffs" or "Laid off" shall mean the non-disciplinary termination of employment.
- b. "Seniority" shall mean the time an employee has worked in a Classification or Series calculated from the date on which the employee was first granted permanent status in their current Classification or any Classification within the Series, subject to the following:

- i. Credit shall be given only for continuous service subsequent to the most recent appointment to permanent status in the Classification or Series;
- ii. Seniority shall include time spent on industrial leave, military leave and leave of absence with pay, but shall not include time spent on any other authorized or unauthorized leave of absence.
- c. "Classification" shall mean one or more full time positions identical or similar in duties and embraced by a single job title authorized in the City budget and shall not include part-time, seasonal or temporary positions. Classifications within a Series shall be ranked according to pay (lowest ranking, lowest pay).
- d. "Series" shall mean two (2) or more Classifications within a Department which require the performance of similar duties with the higher ranking Classification(s) characterized by the need for less supervision by superiors, more difficult assignments, more supervisory responsibilities for subordinates. The City Manager shall determine those Classifications which constitute a Series.
- e. "Bumping Rights", "Bumping" or "bump" shall mean the right of an employee, based upon seniority within a series, to displace a less senior employee in a lower Classification within the Series. No employee shall have the right to Bump into a Classification for which the employee does not possess the minimum qualifications such as specialized education, training or experience.

2. Procedures

In the event the City Manager determines to reduce the number of employees within a Classification, the following procedures are applicable:

- a. Temporary and probationary employees within any Classification shall, in that order, be laid off before permanent employees.
- b. Employees within a Classification shall be laid off in inverse order of seniority;
- c. An employee subject to layoff in one (1) Classification shall have the right to Bump a less senior employee in a lower ranking Classification within a Series. An employee who has Bumping Rights shall notify the Department Director within three (3) working days after notice of layoff of his/her intention to exercise Bumping Rights.

- d. In the event two (2) or more employees in the same Classification are subject to layoff and have the same seniority, the employees shall be laid off in inverse order of their position on the eligibility list or lists from which they were appointed. In the event at least one (1) of the employees was not appointed from an eligibility list, the Department Director shall determine the employee(s) to be laid off.

3. Notice

Employees subject to lay-off shall be given at least thirty (30) days advance notice of the layoff or thirty (30) days pay in lieu of notice. In addition, employees laid off will be paid for all accumulated paid leave, holiday leave (if any), and accumulated sick leave to the extent permitted by the Employee Policy Manual.

4. Re-Employment

Permanent and probationary employees who are laid off shall be placed on a Department re-employment list in reverse order of layoff. The re-employment list shall remain in effect until exhausted by removal of all names on the list. In the event a vacant position occurs in the Classification which the employee occupied at the time of layoff, or a lower ranking Classification within a Series, the employee at the top of the Department re-employment list shall have the right to appointment to the position, provided, he or she reports to work within seven (7) days of written notice of appointment. Notice shall be deemed given when personally delivered to the employee or deposited in the U.S. Mail, certified, return receipt requested, and addressed to the employee at his or her last known address. Any employee shall have the right to refuse to be placed on the re-employment list or the right to remove his or her name from the re-employment list by sending written confirmation to the Human Resources Director.

5. Severance Pay

Permanent employees who are laid off shall, as of the date of layoff, receive one (1) week severance pay for each year of continuous service with the City of Newport Beach, *but in no case to exceed ten (10) weeks of severance compensation.*

- B. Schedule

Nothing contained herein is intended to abridge management's right to schedule work to meet the Police Department's needs of providing services in an efficient and safe manner. Management recognizes its obligations under the Meyers-

Milius-Brown Act to meet and confer before making any substantive changes to work schedules that impact an employee's conditions of employment.

1. Employees currently work a variety of alternative work schedules (some trial) as approved by the Chief of Police. They include 3/12 and 4/10. The basic work schedule shall be considered the 9/81 for the term of this MOU. Subject to the right to re-open as specified in this subparagraph, 9/81 shall be the standard work schedule for the term of this MOU. The 9/81 schedule will be structured to allow for one hundred and thirty (130) days off during the calendar year. NBPMA members shall be entitled to eleven (11) days off for ten (10) months of the year and ten (10) days off during two (2) months of the year. The Chief of Police shall determine the months during which NBPMA members shall receive ten (10) days off. The Chief of Police shall also have the right to alter the work schedule of any NBPMA member assigned to any multi-agency or regional task force.

Upon notice, the parties shall meet and confer, in good faith, regarding the appropriate work schedule(s) for NBPMA members.

2. City shall have the right to designate a fourteen (14) day or twenty-eight (28) day work period pursuant to Section 29 U.S.C. 507(k) ("7 K Exemption"), provided, however, the 7k Exemption shall not affect the City's obligation to pay overtime pursuant to provisions of this MOU.
3. The parties agree that the following procedures are consistent with good police practices, provide each NBPMA member with ample time to perform all required duties, and comply with the Fair Labor Standards Act:
 - a. All Patrol Supervisors are required to report to work fifteen (15) minutes early;
 - b. All Patrol Supervisors acknowledge and agree that normally, they are to leave at the end of their shift, that they shall not routinely perform duties beyond the end of their shift, that the fifteen (15) minutes allotted for briefing preparation is adequate, and they will comply with an order issued by the Chief of Police consistent with this MOU;
 - c. The fifteen (15) minutes per shift shall be converted to compensatory time on a straight time basis and placed in a compensatory time off bank, which the member may use as flex leave, vacation leave or sick leave, but for which the member would not be paid at any time.

C. Grievance Procedure

1. Definition

The term "grievance" means a dispute between NBPMA or any member and the City regarding the interpretation or application of rules or regulations governing the terms and conditions of employment, any provision of the Employee Policy Manual, any provision of Resolution No. 2001-50, or this MOU.

2. Guidelines

Any NBPMA member may file a grievance without fear of retaliation or any adverse impact on any term or condition of employment.

- a. A grievance shall not be filed to establish new rules or regulations, change prevailing ordinances or resolutions, nor circumvent existing avenues of relief where appeal procedures have been prescribed.
- b. An employee may be self-represented or represented by one (1) other person.
- c. An employee and any representative shall be given notice of the time and place of any grievance proceeding, the opportunity to be present at such proceedings, a copy of any written decision or communication to the employee concerning the proceedings, and any document directly relevant to the proceedings.
- d. All parties shall engage in good faith efforts to promptly resolve the grievance in an amicable manner. The time limit specified may be extended upon mutual agreement expressed in writing.
- e. The procedures in this MOU represent the sole and exclusive method of resolving grievances.

3. Procedure

a. Steps

NBPMA members occupying the position of Sergeant or Lieutenant shall present any grievance to the supervising Captain, and may appeal the decision of the supervising Captain to the Chief of Police and City Manager by complying with the procedures in this

subsection. Any member occupying the position of Captain shall present any grievance to the Chief of Police, and may appeal the decision to the City Manager by following the procedures outlined in this subsection. The decision of the City Manager shall be final.

b. Written Notice

All grievances shall be submitted in writing. The grievance shall be submitted within ten (10) working days after the member knew, or in the exercise of reasonable diligence should have known, of the act or events upon which the grievance is based. The grievance shall contain a complete statement of the matters at issue, the facts upon which the grievance is based, and the remedy requested by the member. All appeals shall be in writing and, in addition to the matters which must be stated in any grievance, shall specify the decision or decisions which form the basis of the appeal. Grievances and appeals shall be deemed submitted when personally delivered to the appropriate supervisor or the Chief of Police.

c. Hearings/Meetings

The appropriate supervisor, Chief of Police or City Manager shall meet with the member and any representative in an effort to resolve the grievance. The meeting shall be conducted within ten (10) working days after the appeal or grievance is served. The meeting shall be informal and the discussion should focus on the issues raised by the grievance. Written decisions on the grievance or appeal shall be served on the employee within ten (10) working days after the meeting.

4. General Grievance

A grievance affecting more than one (1) NBPMA member may be filed by NBPMA on behalf of the affected employees with the Chief of Police. The grievance shall contain a complete statement of the matters at issue, the facts upon which the grievance is based, and the remedy requested by NBPMA. The Chief of Police shall meet with NBPMA representatives within *fifteen (15) calendar* days following receipt of the grievance and provide a written decision on the grievance within *fifteen (15) calendar* days after the meeting. In the event NBPMA is dissatisfied with the decision of the Chief of Police, it may appeal to the City Manager by following the procedures outlined in Step 4 of the procedure applicable to individual employees.

In the event NBPMA is dissatisfied with the decision of the City Manager, it may appeal the decision to the Civil Service Board by filing a written notice of appeal within fifteen (15) calendar days after receipt of the decision.

D. Direct Deposit

All Unit employees shall participate in the City's Direct Deposit Program.

E. Classification and Compensation Study

As this MOU is being prepared and adopted, the City Council has authorized and the City is in the process of completing a Classification and Compensation Study. Upon completion of the Study, the parties agree to meet and confer to discuss increases to compensation of unit members to address compaction (compensation levels of separation between ranks) concerns.


I. Contract Negotiations

The parties agree that, if NBPMA submits preliminary requests for changes in wages, fringe benefits and other terms and conditions of employment earlier than ninety (90) days prior to expiration of this MOU (as provided in Section 18. Timetable for Submission of Requests of the Employer-Employee Relations Resolution), the parties will begin negotiations promptly, with the objective of reaching agreement by *January 1, 2015*.


Signatures are on the next page.

Executed this 14th day of September, 2012:


NEWPORT BEACH POLICE MANAGEMENT ASSOCIATION

By: 
Steve Rasmussen, President

CITY OF NEWPORT BEACH

By: 
Nancy Gardner, Mayor

ATTEST:

By: 
Leilani Brown
City Clerk



APPROVED AS TO FORM:


Aaron Harp, City Attorney *MT 9/4/12*

Attachments: (1) Exhibit "A" NBPMA Represented Classifications
(2) Exhibit "B" Kerry Worgan March 1, 2012 Letter

EXHIBIT "A"

**CITY OF NEWPORT BEACH
POLICE MANAGEMENT ASSOCIATION**

Represented Classifications:

Police Sergeant
Police Lieutenant
Police Captain

Exhibit "B"

*March 1, 2012 letter from
PERS Senior Pension Actuary, Kerry Worgan*



California Public Employees' Retirement System
Actuarial Office
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (916) 795-3240
(888) 225-7377 phone • (916) 795-2744 fax
www.calpers.ca.gov

March 1, 2012

Mr. Dan Matusiewicz
City of Newport Beach
P.O. Box 1768
Newport Beach, Ca 92658-8915

Dear Mr. Matusiewicz:

This letter gives information on the maximum amount of employee cost share for your Safety Plan. Current Public Employee Retirement Law allows permanent cost sharing of the normal cost (NC) and 20 years of cost sharing due to the increase in unfunded liability (UL) from some past amendment. The 20 years of cost sharing due to the increase in unfunded liability begins from the effective date of the contract amendment. The tables that follow lay out all the necessary information for the maximum amount of cost sharing:

	<u>Safety Police Plan</u>
Amendment	3% @ 55
Effective Date	8/26/2000
NC Increase	2.142%
UL Increase	5.096%
Temporary Cost Share	7.238%
Temporary Expiration Date	8/26/2020
Permanent Cost Share	2.142%

Remember that these are maximum cost share amounts. Actual cost share amounts can be anything up to the amounts listed above. Should you have any questions, I can be reached at 916-795-0003.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry Worgan", with a stylized flourish at the end.

Kerry Worgan, FSA, FCIA, MAAA
Senior Pension Actuary, CalPERS